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Attorneys for Defendants
SERVICENOW, INC. AND THE BOARD
OF DIRECTORS OF SERVICENOW, INC.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PAUL S. RUBKE and SHERIDA DU LAC DE
FUGERES, individually and as representatives
of a Class of Participants and Beneficiaries of
the ServiceNow, Inc. 401(k) Plan,

Plaintiffs,

v

SERVICENOW, INC. and
BOARD OF DIRECTORS OF
SERVICENOW, INC.,

Defendants.

Case No. 3:24-cv-01050-TLT

**L.R. 7-12 STIPULATION IN SUPPORT
OF JOINT ADMINISTRATIVE
MOTION TO VACATE DEADLINES
IN SCHEDULING ORDER**

Second Am. Compl. Filed: November 8, 2024

Judge: Trina L. Thompson

STIPULATION IN SUPPORT OF JOINT ADMINISTRATIVE MOTION TO VACATE DEADLINES IN
SCHEDULING ORDER

Case No. 3:24-cv-01050-TLT

1 Paul S. Rubke and Sherida Du Lac De Fugeres (together, “Plaintiffs”) and ServiceNow,
2 Inc., and the Board of Directors of ServiceNow, Inc. (together, “Defendants,” and collectively the
3 “Parties”), through their respective counsel, submit this Stipulation under Local Rule 7-12 in
4 support of their Joint Administrative Motion to Vacate Deadlines in Scheduling Order. The Parties
5 stipulate as follows:

6 1. The Court previously stayed all discovery pending its assessment of whether
7 Plaintiffs have stated a plausible claim in this action. In response to Plaintiffs’ request for
8 “plausibility” discovery, the Court permitted “limited” discovery to allow Plaintiffs “to cure the
9 pleadings defects that the Court pointed out in its Order granting Defendants’ Motion to Dismiss”
10 the Amended Complaint. Dkt. Nos. 44 & 51. Magistrate Judge Kang limited the Parties’ discovery
11 to just four specific categories of documents related to Defendant’s monitoring of Plan investments.
12 Dkt. No. 61. The Parties have conducted no discovery beyond the “limited” discovery permitted
13 by the Court.

14 2. Because the Court stayed all but “limited” discovery, and because Defendants’
15 motion to dismiss the Second Amended Complaint is still pending, it would be a waste of the
16 Parties’ and the Court’s time and resources to proceed with the current schedule before the Court
17 has permitted any of Plaintiffs’ claims to proceed in this action.

18 3. To start, the Parties have not engaged in the type of discovery required for briefing
19 a motion for class certification, including the depositions of the named Plaintiffs, the deposition of
20 any fact witnesses for the defense, and any expert discovery related to the scope of the class.

21 4. Further, the Parties have not exchanged written discovery requests and responses,
22 engaged in any discovery of electronically stored information (“ESI”) maintained by Defendants’
23 ESI custodians, or conducted any expert discovery related to Plaintiffs’ claims and alleged losses.
24 Without this discovery, the Parties are not prepared to brief their anticipated motions for summary
25 judgment.

26 5. The Parties agree that it would be premature to engage in the anticipated discovery
27 described above before the Court rules on Defendants’ pending motion to dismiss and determines
28

whether Plaintiffs' claims may proceed.

6. Therefore, the Parties ask the Court to vacate all deadlines set in the Court's Case Management and Scheduling Order and to reset those deadlines only if the Court denies dismissal of any of the claims asserted in the Second Amended Complaint. Should the Court deny Defendants' motion to dismiss in whole or in part, the Parties will propose new deadlines for the Court's consideration within three weeks of that ruling.

Dated: February 12, 2025

WALCHESKE & LUZI, LLC

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L.R. 5-1(h)(3) Certification

Pursuant to Local Rule 5-1(h)(3), I attest that concurrence in the filing of the foregoing document has been obtained from each of the other Signatories.

/s/ Mark A. Feller
Mark A. Feller

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